



# Massachusetts Division of Marine Fisheries

Dr. David E. Pierce, Director

## Policies, Procedures, and Guidelines

### Transfers of “Bundled” Limited-Entry Permits/Endorsements and Waiving of Criteria to Determine “Actively Fished”

**Introduction and Purpose:** This policy clarifies: (1) performance criteria required for the agency to approve transfers of certain limited-entry fishery permits and endorsements, and (2) which groups of permits and endorsements may be transferred as a bundle without the requirement that each and every endorsement be assessed for “activity level.”

Seventeen different permits and endorsements are managed by the Division as limited-entry, and many of those permits and endorsements are inextricably linked. For example, certain gear endorsements (e.g. mobile gear: otter trawls) and the species that the gear targets (e.g. multispecies groundfish, fluke) are both regulated through limited-entry permit programs. In other cases, there are limited-entry permit endorsements for comparable gear types (e.g. mobile gear include otter trawl, surf clam dredge, ocean quahog dredge, bay quahog dredge) that the permit holder may possess and actively fish using some but not all of the gears. Moreover, because there are limited-entry permit types that govern both the gear and species - if held in combination – these permits should be transferred as a “bundle” to prevent permit splitting; (where possible) allow diverse permit portfolios to remain intact; and enhance fishing opportunities of transfer recipients.

**Background:** Pursuant to the authority at M.G.L. c. 130 s. 2, 17, 17A, and 80 and 322 CMR 7.01 and 7.06, the Director of the Division of Marine Fisheries (*Marine Fisheries*) may control the issuance, renewal and transfer of commercial fishing permits and permit endorsements. This authority includes, but is not limited to, enacting permit issuance moratoriums to limit entry into a fishery and prescribing the means and manners by which limited-entry permits and permit endorsements can be transferred.

Most commercially important fisheries at the federal and state level have adopted limited-entry rules where permit holders are limited in number and in most cases include only those persons or vessels that have past participation in the fishery and remain active. This approach is known as an “input control” where the number of participants or vessels is controlled in an attempt to limit harvest or fishing mortality. In contrast, “output control” measures are direct controls on total harvest, known as hard quotas.

Since the 1970's these programs have been a key component of DMF's inshore fisheries management strategy. In the Commonwealth limited-entry began in the 1970's with limits on Coastal Lobster permits and tuna purse seine permit endorsements. In the past three decades, permits and endorsements for many other gears and/or species have become limited-entry (see table 1).

After limiting entry, managers usually accommodate new participants into the industry through some means (e.g. transfers); otherwise, the fishery would become extinct with retirement of the last participant. Consequently, permit/endorsement transfers are usually considered essential to allow ingress and egress into the industry once managers achieve some optimal level of participation.

Transfers of limited-entry permits or endorsements are conducted under regulations and policies established by the Division. Persons seeking to transfer permits/endorsements must work through DMF because state law and regulations prohibit the transfer, loan, lease, exchange, barter or sale of any permit without permission of the Director. (See Ch 130 sec 2 and 322 CMR 7.01(14)(e))

**Table 1. List of limited-entry permits/endorsements and the date limited-entry was established for that gear or species.**

| Gear Endorsements        |                    | Species Endorsements    |                    |
|--------------------------|--------------------|-------------------------|--------------------|
| Limited-entry Fishery    | Limited-entry Date | Limited-entry Fishery   | Limited-entry Date |
| Bluefin Tuna Purse Seine | 1974               | Coastal Lobster Permit  | 1975               |
| Bluefish Gillnet         | 1983               | Fluke                   | 1999               |
| Sink Gillnet             | 1992               | State Waters Groundfish | 2006               |
| Fish Pot – Scup          | 1990               | Horseshoe Crab          | 2008               |
| Fish Pot – Sea Bass      | 1987               | Black Sea Bass          | 2012               |
| Fish Pot – Conch         | 1990               | Menhaden                | 2013               |
| Quahog Dredge            | 1993               |                         |                    |
| Surf Clam Dredge         | 1993               |                         |                    |
| Bay Quahog Dredge        | 2001               |                         |                    |
| Coastal Access Permit    | 1992               |                         |                    |

In the current permit structure most commercial fishermen hold either a lobster permit (coastal or offshore) or a boat permit. Each of these base permits is further endorsed for one or more regulated fishery types through permit "endorsements." These endorsements essentially are permits to participate in a variety of regulated fisheries and delineate use of certain gears (e.g. gillnets, mobile gear, fish pots) or quota managed species (e.g. fluke, scup, black sea bass, menhaden, state waters multispecies groundfish).

Transferring limited-entry permits/endorsements requires the holder to contact the agency in writing, have the agency determine the permit and/or endorsements' eligibility for transfer, and then complete a form with notarized signatures between the holder and the intended recipient. Criteria for transferring a limited-entry endorsement are governed by 322 CMR 7.06.

There are currently five species-specific permit endorsements under limited-entry: Fluke, Black Sea Bass, Horseshoe Crab, Multispecies Groundfish, and Menhaden. There is also one limited-entry species-specific permit: Lobster. In the case of the Coastal Access Permit for mobile gear (CAP), current

regulations (CMR 7.06(4)(a)(3)) allow for the transfer of other limited-entry permit endorsements which are held in conjunction with the CAP as part of a transfer at the request of the permit holder.

*Marine Fisheries* has allowed, in accordance with 322 CMR 7.06(4)(a)(iii), the transfer of Fluke, SW-Groundfish, Black Sea Bass, and Horseshoe Crab endorsements as part of a CAP transfer provided the CAP has been actively fished in four out of the last five years, meaning there were mobile gear (such as otter trawl, beam trawl, or sea scallop dredge) landings from state waters in those years. This regulation accommodates the permit holder and the intended recipient's desires to maintain the fishing business and its permit portfolio intact upon transfer, and moreover to prevent regulatory discards (caused by the recipient being denied the transfer of one or more species-specific endorsements for lack of "activity level").

In the case of fluke endorsements, *Marine Fisheries'* policy has been to restrict the transfers of fluke endorsements, especially among rod and reel fishermen due to the proliferation of the permits sold to this sector prior to the limited-entry program being established in 1999. The goal of making the fishery limited-entry was to reduce the number of endorsements. Allowing liberal transfers of this endorsement would reduce the moratorium's effectiveness towards this objective. However, inshore trawlers with Coastal Access Permits for mobile gear (CAP) operating without a fluke endorsement transfer would likely result in excessive discards, thus those CAP endorsement holders who transfer their CAP and sell their businesses (vessels, permits, etc.) have been allowed to transfer their fluke endorsement if the other measure(s) of activity were met to keep the business whole. For the offshore trawl fishery, especially vessels too large to fish in state waters, when vessels and federal permits are sold, DMF allows the transfer of the fluke endorsement to prevent regulatory discards in the offshore fishery.

Recently, *Marine Fisheries* has received requests to liberalize transfers of endorsements/permits for like gears. In some of these cases one or more of the endorsements may not have been actively fished but would be paired in the transfer with an endorsement that was actively fished and employed similar gear type. Specifically, the agency has received requests to transfer both a scup-pot endorsement and a sea bass-pot endorsement when only one of the endorsements was actively fished. Similarly some vessels hold two or three limited-entry mobile gear endorsements that could be used on a single vessel. The mobile gear Coastal Access Permit endorsement, as well as shellfish dredge endorsements for surf clams, ocean quahogs, and bay quahogs are all capable of being fished on a common vessel but for reasons of personal choice or local abundances the permit holder may have actively fished the vessel and gears in some but not all the fisheries leading up to a transfer. Given the similarity of gears and scale of fisheries, it is reasonable to accommodate these kinds of requests.

*Marine Fisheries* has determined that it is in the best interest of the Commonwealth *to allow permit holders to "bundle" certain permits/endorsements that utilize the same gear-type (mobile gear or pot gear) in transfers, provided that established standards of "actively fished" are met (see Policy below)*. Allowing these types of bundled permit/endorsement transfers would serve three main purposes: (1) it allows fishing businesses to remain "whole" and gives the transferee the potential for more diverse commercial fishing opportunities in a given gear-type; (2) the amount of discards is cut down by allowing a transferee to receive the full suite of endorsements that may be necessary to retain certain species with the given gear-type; and (3) by encouraging permit holders to transfer their permits/endorsements in bundles, *Marine Fisheries* is discouraging the splitting of one fishing operation into two, thus reducing proliferation of permits and effort.

**Policy:** Until further notice, *Marine Fisheries* will allow the following groups of permits and endorsements to be bundled together in transfers, provided that one of the associated gear-types (mobile gear, shellfish dredge, fish pot) has been determined to be actively fished (consistent with 322 CMR 7.06) in four of the last five years.

**Approved Bundles:**

***Fisheries Involving Pot and Traps\*:***

- Permit holders who hold an actively fished coastal lobster permit with an inactive fish pot endorsement (for scup and/or black sea bass) may transfer those fish pot endorsements with the coastal lobster permit.
- Permit holders who hold a boat or coastal lobster permit with an actively fished conch pot endorsement that also has an inactive fish pot endorsement (for scup and/or black sea bass) may transfer those other fish pot endorsements with the conch pot endorsement.
- Permit holders who hold a boat permit with fish pot endorsements for scup and black sea bass may transfer both fish pot endorsements provided one of the fish pot endorsements (sea bass pot or scup pot) has been actively fished.

***Fisheries Involving Mobile Gear:***

- Permit holders who hold multiple endorsements for using mobile gear including Coastal Access Permit (CAP), surf clam dredge, ocean quahog dredge, and bay quahog dredge, may transfer any and all mobile gear endorsements provided at least one of the mobile gear endorsements has been actively fished.
- Permit holders who hold an active mobile gear Coastal Access Permit (CAP) endorsement may transfer all species-specific endorsements with the CAP, regardless of individual activity levels. These species specific endorsements include fluke, state waters groundfish, black sea bass, horseshoe crab, and menhaden.

*\*Note: Conch pot endorsements are not included in these transfer bundles because transfers of conch pot endorsements are governed by a separate policy, "Performance Criteria for Conch Pot Endorsement Transfers."*